IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

United States of America Plaintiff, v. **Joseph Martínez Ávila (2) (28)** Defendant	**CR 15-629 (ADC)** **CR 16-591 (ADC)**

Sentencing Memorandum

TO THE HONORABLE COURT:

COMES NOW, the appearing defendant, Joseph Martínez-Ávila, by and through the undersigned attorneys, and respectfully states and prays as follows:

INTRODUCTION

Mr. Martínez-Ávila is to be sentenced on May 7th, 2017 before this Honorable Court. The purpose of this filing is to address the pertinent factors under 18 U.S.C. Section 3553(n) so that the Court may be in a better position to impose a sentence which is sufficient, but not greater than necessary, to comply with the purposes set forth in said statute. Consistent with the purpose of sentencing - outlined below in the statute and discussed herein - courts should impose the lowest possible sentence to effectuate those goals. We will proceed to address the factors contained in the statute however, a brief procedural history of this case will facilitate the review of the issues to be raised herein.

PROCEDURAL HISTORY

Mr. Martínez Ávila pled guilty in Case No. 15-629 to Counts One and Two of the Superseding Indictment and in Case No. 16-591 to Count One of the Indictment.

MR. MARTÍNEZ-ÁVILA'S HISTORY AND CHARACTERISTICS

Mr. Martínez-Ávila is 23 years old. His first brush with the law occurred in 2010, when he was 16 years old. His life until that point had not been stable since his mother lived in Puerto Rico and his father in the continental United States. He had never lived in one place for more than a handful of years since his parents alternated for brief periods of time in taking care of Mr. Martínez. When he was arrested that first time, he was living with his father, who did not take too much interest in who Mr. Martínez was spending time with nor does he remember his father ever giving him advise or sitting down with him to see if anything was wrong.

Mr. Martínez recognizes that he had been spending time with some cousins who were not the ideal companions for a teenager. He also began at that time to experiment with drugs and became a regular user. When Mr. Martínez was allowed to go home from the Youth Detention Facility, his father already had an airplane ticket to send him back to Puerto Rico. When he arrived, Mr. Martínez lived with his mother at the Vista Hermosa PHP in San Juan. Mr. Martínez recognizes that he was sent to live at the least ideal place since the company at the Public Housing Project was worse than what he had in California.

Once in the Public Housing Project, Mr. Martínez got involved with the wrong crowds who at least gave him a sense of belonging. Mr. Martínez does not excuse his offenses and does not place blame on his family nor on anybody else. Nevertheless, in preparation for sentencing, when asked about how he feels about the offenses or if he would do things differently with his children, he demonstrated that he now grasps what led him to this moment and he seems to realize which wrong decisions lead him here. He feels a compelling need to advise his children as to how to avoid ending up in his situation.

In preparing his Sentencing Memorandum and in our meetings with Mr. Martínez, we have come to understand that the person shown in paper is surprisingly different than the person who will be before the Court for sentencing. It is of particular importance to note how Mr. Martínez seems to be much older than he really is.

Notwithstanding the substantial time in which he will be incarcerated, Mr. Martínez looks forward to being free again. He indicates that if he is still with his girlfriend when he fulfills his sentence, he will marry her. He also wishes to obtain a commercial driver's license to be able to drive trucks across the United States. Mr. Martínez understands that vocational training in mechanics will also help him in the future to obtain gainful employment in this area.

It is also important for the Court to know that when he had been part of the conspiracy in case 16-591, he tried to seek jobs in Puerto Rico in order to stop selling drugs. Later on, when he moved to another Public Housing, he left the conspiracy and when he moved to Connecticut, he quickly found a job in a UPS warehouse.

During his time in detention, Mr. Martínez has already taken and approved (finalized on May 24, 2017) the English as a Second Language course and looks forward to maximizing the vocational, educational and drug treatment programs that may be available to him in the institution where he is finally sent to.

Mr. Martínez recognizes the seriousness of the offenses he committed. He is repentant and only wishes to fulfill his sentence in order to try and right his wrongs.

Mr. Martínez Ávila recognizes that getting vocational training will help him in steering clear from further offenses. He wishes to study mechanics and to relocate to the continental United States which will also help steer himself away from bad influences.

CONCLUSION

Lengthy imprisonment increases recidivism by disrupting employment, reducing prospects of future employment, weakening family ties, and exposing less serious offenders to more serious offenders. This Court has significant leeway to impose a sentence determined by it to be fair and reasonable after due consideration to all the Section 3553(a) factors. In the exercise of its discretion, and in applying the Factors set forth in Section 3553(a), we respectfully request that this Honorable Court sentence Mr. Marínez to a term of imprisonment which would be "sufficient, but not greater than necessary" to effectuate the ends of justice. Consistent with all the purposes of sentencing, courts should impose the lowest possible sentence to effectuate those goals. While we must agree that a sentence of incarceration is warranted, an excessive term of imprisonment is not only discouraged by the framers of the sentencing statute, it is prohibited.

Since the Court shall consider the 3553(a) factors at sentencing, Mr. Martínez-Ávila asks the Court to consider as to the nature of the circumstances of the offense, the history and characteristics of the defendant and the nature of the circumstances that he is extremely young and will be incarcerated until his thirties. He will not have the opportunity of experiencing firsthand the development of his children nor any of the experiences other people of his age have. Nevertheless, he accepts that he should be punished for his offenses and does not blame others for his mistakes. This acceptance in itself shows maturity that speaks volumes as to what the Court can expect when he finalizes his Sentence. As to the need for the sentence imposed to reflect the seriousness of the offense, to promote respect for the law, to provide just punishment for the offense, to afford deterrence to criminal conduct and to protect the public from further crimes of the defendant, Mr. Martínez submits that he has accepted responsibility for his mistakes, has been sober during the time he has been in detention and is looking forward to receiving treatment. He does not wish to be in jail longer than necessary and does not wish to come back. With proper treatment during incarceration and with assistance during his term of supervision, he will finally be able to be a parent and an upstanding citizen.

In sum, we should not judge a book by its binding and in the same manner, Mr. Martínez asks the Court to judge him not only based on who he is on paper but on who he has become and wishes to become. He respectfully submits that the sentence to which he is exposed as a result of his guilty plea pursuant to the plea agreements, is sufficient, but not greater than necessary, and adequately reflects the seriousness of the offense conduct charged herein. Likewise, the proposed term of imprisonment affords adequate deterrence to criminal conduct, as it represents absolute banishment from society and deprivation of liberty for a substantial length of time. He has shown that he is willing to accept responsibility for what he did in the past while looking forward to his future.

WHEREFORE, Mr. Mártínez-Ávila moves this Honorable Court to take note of the foregoing and sentence him accordingly to the lowest term of imprisonment allowed under the terms of the Plea Agreements.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 6th day of June, 2017.

I HEREBY CERTIFY that on this same date, electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send electronic notification of such filling to all parties.

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